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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 174  
136<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the Senate

**Primary Sponsors:** Sens. Gavarone and Hicks-Hudson

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## SUMMARY

### Allocation of parenting responsibilities

- Establishes a state public policy to foster and continue the relationship between the child and each parent when allocating parenting responsibilities and for each parent to have parenting time and participate in decision-making regarding the child, when it is in the child's best interest.
- Replaces the concept of "residential parent and legal custodian" with "designated parent and legal custodian" of a child and repeals the concepts of shared parenting and sole custody.
- Requires a court to allocate parenting responsibilities in a proceeding pertaining to the allocation of parenting responsibilities, which includes a divorce, dissolution, legal separation, annulment, or any other related proceeding involving a child.

### Parenting plans

- Requires an allocation of parenting responsibilities, which the bill defines, to be incorporated into a parenting plan that must be approved or issued by the court.
- Redefines "parenting time" to mean the time that a parent is responsible for a child under a parenting plan and specifies that the General Assembly requests each court with jurisdiction over domestic relations matters to review and update the court's local rules regarding parenting time to comply with the bill's provisions.
- Requires a parenting plan to ensure that parents or legal custodians share in the responsibilities of raising a child, enable a child to enjoy a meaningful relationship with both parents or legal custodians, and maximize parenting time with each parent when it is in the child's best interest, and establishes provisions that must be included in a parenting plan.

- Requires a parenting plan to be filed no later than 30 days before a hearing to determine the allocation of parenting responsibilities.
- Allows parents or legal custodians to file separate or joint parenting plans, which the court must oversee according to the following provisions:
  - When the parents or legal custodians file a joint parenting plan:
    - ❖ Requires the court to approve the plan if it finds that the plan's provisions are in the best interest of the child;
    - ❖ Requires, if the court finds that the plan is not in the best interest of the child, the court to provide written findings of fact to support its finding and either allow the parents or legal custodians to make appropriate changes to resolve the court's objections or issue its own plan.
  - When a parent or legal custodian files one or more separate parenting plans:
    - ❖ Requires the court to review each plan to determine whether it is in the best interest of the child and: (1) to approve the plan that is found to be in the best interest of the child and (2) provide written findings of fact to support its finding that another plan is not in the best interest of the child;
    - ❖ Requires, if the court finds that no plan is in the best interest of the child, the court to provide written findings of fact to support its finding and either allow the parents or legal custodians to make appropriate changes to resolve the court's objects or issue its own plan.
  - Allows a court to deny the request for substantially equal parenting time in either a joint or separate parenting plan if it determines that it is not in the child's best interest, endangers the safety of the parties, or for other good cause shown, and provides written findings of fact to support its determination.
- Requires the court to issue its own parenting plan if no parent or legal custodian files a plan.

### **No preferential treatment and presumptions**

- Prohibits the court from giving preference to a parent or legal custodian because of that person's financial status or gender.
- Prohibits the court from drawing any presumptions from a temporary parenting order on the allocation of parenting responsibilities in a parenting plan.

### **Restrictions**

- Allows the court to approve or order a restriction of parenting responsibilities if the court finds, based on a preponderance of evidence, that the restriction is reasonably calculated to protect a child from physical, sexual, or emotional abuse, or a parent from domestic violence.

- Specifies the circumstances that constitute such danger and the types of restrictions that may be imposed.

### **Legal custodian when no parent is suitable**

- Allows the court to designate a relative or kinship caregiver as the legal custodian of a child or certify the matter to the juvenile court if the court determines that no parent is suitable to be allocated parenting responsibilities under a parenting plan, based on established factors and provided that the designation is in the best interest of the child.

### **When a child is born to an unmarried mother**

- Designates an unmarried female who gives birth to a child as the sole designated parent and legal custodian of the child until a court of competent jurisdiction issues an order allocating parenting responsibilities, based on the best interest of the child.
- Allows either the mother or father to file a complaint requesting the allocation of parenting responsibilities upon the father establishing parentage.

### **Modifications of existing parenting plans**

- Allows the parties to request an agreed upon modification to an existing parenting plan if they file a motion requesting that the prior plan be modified with the proposed agreed entry.
- Allows the court to approve the motion and entry or conduct a hearing on it and modify the prior parenting plan if the modification is in the best interest of the child.
- Allows one party to make a modification that all parties do not agree to if that person files a motion requesting modification, which must include: (1) the specific modification sought, (2) the change of circumstances of the parent, legal custodian, or child, and (3) why the modification is in the best interest of the child.
- Allows the court to approve the modification upon finding a change in circumstances has occurred, a modification is in the best interest of the child, and that one of the following applies:
  - All parties to the proceeding agree to the modification;
  - The child has been integrated into the family of the parent or legal custodian seeking modification with the consent of the other parent or legal custodian;
  - The advantages of the modification outweigh any harm to the child.
- Allows a court to assess attorney fees and litigation expenses upon finding that a motion to modify a parenting plan was brought in bad faith or the party's actions constituted frivolous conduct.
- Clarifies that a modification does not limit the authority of a child support enforcement agency to review a child support order.

## Appeals

- Requires that if an appeal is taken from an order of a court that grants or modifies parenting responsibilities in a parenting plan, the court of appeals must give the case calendar priority and handle it expeditiously.

## Temporary orders

- Allows the court to make a temporary order allocating parenting responsibilities when it is requested in a motion, upon satisfactory proof by affidavit duly filed with the clerk of court.
- Allows, if the court issues a temporary order without an oral hearing, a party to file a written request for an oral hearing to modify a temporary order and requires a court to conduct an oral hearing no later than 28 days after the filing, unless good cause is shown.
- Allows the court, in determining parenting responsibilities in a temporary order when parentage has not been established, to consider the existence of a clear pattern of a parent and child relationship between the child and the person seeking to establish parentage.

## Active military service

- Recodifies and mostly maintains current law provisions regarding active military service and its impact on the allocation and modification of parental rights and responsibilities and orders for parenting time, but with the following changes:
  - Combines into one process the two current law processes regarding active military service and its impact on (1) orders allocating parental responsibility and (2) parenting time orders, primarily using the process for active military service regarding allocations of parental rights and responsibilities as the pattern;
  - Eliminates the requirement that notice be made to the other parent regarding a pending parenting responsibilities allocation proceeding within three days of receipt of active military service orders;
  - Eliminates the ability of the court, pursuant to specific findings of fact, to modify a prior allocation decree if there has been a change in circumstances of the child or the parents and modification serves the child's best interests;
  - Adds the following that may be included in a temporary order to modify parenting responsibilities during a parent's active military service:
    - ❖ Delegate all or part of parenting time to a relative or another person who has a close and substantial relationship with the child;
    - ❖ Require the other parent to make the child reasonably available for parenting time when the parent in active military service is on leave;
    - ❖ Require the other parent to facilitate contact, including telephone and electronic contact, between the child and the parent in active military service.

## **Best interest factors**

- Establishes factors for determining the best interest of the child when allocating parenting responsibilities.

## **Investigations and evaluations**

- Allows a court to order a parent, legal custodian, or child to submit to any of the following when determining the allocation of parenting responsibilities:
  - The investigation of any relevant circumstances and conditions regarding the allocation of parenting responsibilities, including character, family relations, past conduct, earning ability, and financial capacity of the parties to meet parenting responsibilities;
  - The evaluation of any relevant circumstances and conditions regarding the allocation of parenting responsibilities, including substance abuse, medical, psychological, or psychiatric interviews, tests, examinations, and assessments;
  - The custody evaluation as described in the Rules of Superintendence for the Courts of Ohio.

## **Interviewing a child**

- Allows a court to interview a child regarding the child's wishes and concerns as it relates to the allocation of parenting responsibilities, and requires such an interview if requested by either party.
- Requires the child's attorney (if any) and any court personnel deemed necessary at the court to be present at the interview and allows a child's guardian ad litem (GAL) to be present.

## **Prohibition of parent or legal custodian's attorney against speaking to child**

- Prohibits an attorney representing a parent or legal custodian in a proceeding pertaining to the allocation of parenting responsibilities from discussing the issue of parenting responsibilities with a child who is the subject of the proceeding.

## **Appointment of GAL and attorney for child**

- Allows the court (or requires, if otherwise required by law) to appoint a GAL for a child, who must serve in the best interest of the child and owe a duty of candor to the court.
- Allows the court to appoint, at its discretion, an attorney for a child, and specifies provisions that must be included in such an appointment.

## **Counseling and parent and child education**

- Allows the court to order a parent or legal custodian to participate in counseling with a licensed mental health professional or through community programs.

- Requires the court to order the parents or legal custodians to complete parent education, unless the proceeding involves allegations of abuse or neglect or a dependent, unruly, or dependent child.
- Allows the court to complete additional parent education upon completion of the initial education and to waive the parent education requirement for good cause shown.
- Allows the court to order any party to deliver a child to attend child education as appropriate to the child's needs.

### **Use of dispute resolution**

- Permits the court to order the parties in a proceeding to undergo dispute resolution if the parties do not agree upon an appropriate allocation of parenting responsibilities or a specific schedule of parenting time for the children.
- Requires the court to consider any allegations of domestic violence relating to any of the parties when determining whether dispute resolution is appropriate.

### **Notice of intent to relocate**

- Requires a relocating party to file a notice of intent to relocate with the clerk of court and for the clerk to send a copy of the notice to the last known address of the nonrelocating party.
- Requires a notice of intent to relocate to be filed no later than 60 days before the date of the intended relocation or no later than ten days after the relocating party knew of the relocation, if the 60-day requirement cannot be met.
- Allows a court to take certain actions if the court finds that the health, safety, and welfare or liberty of a person, including a child, would be reasonably put at risk by the relocating party filing a notice of intent to relocate.
- Allows a nonrelocating party to file a motion objecting to a relocation and seek an order restricting the relocation when the relocation would render any portion of the parenting plan impracticable, not in the child's best interest, or violate restrictions in the plan.
- Establishes a number of factors that the court must consider in making a decision on a proposed temporary or permanent relocation, in order to foster a continuing meaningful relationship between the child and nonrelocating party.

### **Companionship and visitation**

- Recodifies current law provisions regarding companionship and visitation, but largely maintains that law, which addresses the process for obtaining companionship and visitation, the factors a court must consider, and the effect of parental remarriage.
- Requires the court to give special weight to the parents' wishes regarding the child when determining that granting companionship or visitation is in the best interest of the child.

- Applies to companionship and visitation determinations several provisions related to interviewing a child in chambers regarding the child's wishes and concerns when allocating parenting responsibilities.
- Specifies that the following individuals are eligible for companionship or visitation: a relative, person who has served as a kinship caregiver, or any other person related to the child by consanguinity and affinity, other than a parent.

### **Supervisor of parenting time or companionship or visitation**

- Requires the court to approve or designate a supervisor of parenting time or companionship or visitation, who must adhere strictly to the terms ordered by the court and be willing and able to protect a child from harm.

### **Interference with parenting time or companionship or visitation**

- Allows a party to file a motion alleging interference with parenting time or companionship or visitation and requires the court to hold an initial hearing within 28 days after service, unless good cause is shown.
- Specifies orders or other actions that the court may take if it finds that there has been unreasonable interference.

### **Child support**

- Requires the court (for a court child support order) or the child support enforcement agency (for an administrative child support order) to determine who must pay and who is entitled to receive child support and include the applicable worksheet that has been completed with the issuance of any new or modified support order.
- Changes definitions under existing child support law to accommodate the changes the bill makes regarding the allocation of parenting responsibilities in a parenting plan.
- Establishes new provisions with regard to the effect of child custody on the calculation of child support after the bill's effective date.

### **Access to child care, records, and student activity**

- Recodifies but largely maintains current law regarding access to child care, records, and student activity.
- Removes distinctions between residential and nonresidential parents and expands access laws to all legal custodians so that any parent or legal custodian is permitted access to these records, unless the court determines that access would not be in the best interest of the child.
- Requires all child care center officials and employees to allow a parent or legal custodian who has been allocated parenting responsibilities to have access to any child care center that is, or that in the future may be, attended by the child, unless presented with a copy of an order that specifies limitations against the parent or legal custodian.

- Requires an order specifying access limitations against a parent regarding child care access to include a notice that any child care center official or employee who knowingly fails to comply with an order or access requirements under the bill may be found in contempt of court.

### **Transitional provisions**

- Allows parties to any decree that allocates parental rights and responsibilities before the bill's effective date to file a motion with the court requesting the issuance of a parenting plan under the bill.
- Provides that a decree allocating parental rights and responsibilities before the bill's effective date cannot be affected or invalidated by (or construed as being affected or invalidated by) the bill's provisions regarding the allocation of parenting responsibilities in a parenting plan on or after the bill's effective date.

### **Allocation of parenting responsibilities in a paternity proceeding**

- Allows a judgment or order establishing paternity to include an allocation of parenting responsibilities.

### **Recodification and other nonsubstantive updates**

- Recodifies extensively current law regarding parental rights and responsibilities, parenting time, and companionship or visitation.
- Amends many existing sections of the Revised Code to update cross-references and update or remove terms as a result of the extensive recodification of, and changes to, current law.

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## DETAILED ANALYSIS

### Overview

The bill makes changes to current law regarding the allocation of parental rights and responsibilities by reforming, recodifying, and repealing various provisions of that law. Chief among these changes, the bill requires a court to allocate parenting responsibilities in a parenting plan and repeals the concepts of shared parenting, sole custody, and split custody.

The bill also makes “parenting time” the time that a parent is responsible for the child under a parenting plan instead of the amount of time that a nonresidential parent spends with a child when the court does not issue a shared parenting decree. In addition, the bill retains companionship and visitation for nonparents, but amends to whom it may be granted and eliminates the concept of companionship and visitation as “rights.”

The bill also addresses several other provisions, many of which are adapted from current law. They include: modifying parenting plans, factors to determine the child’s best interest, circumstances under which a court may require a parent to undergo counseling, the use of dispute resolution, requiring parenting or child education classes, investigations of circumstances and conditions to determine the allocation of parenting responsibilities, interviewing a child regarding a child’s wishes and concerns, restrictions on parenting responsibilities, designating or approving a supervisor of parenting time, appointing a guardian ad litem (GAL) or attorney for a child, provisions regarding relocation and active military service, interference with parenting time, child support, companionship or visitation for nonparents, and access to a child’s records or child care center.

### Public policy of the state

The bill establishes a new public policy regarding the allocation of parenting responsibilities. It is the public policy of the state, when it is in the child’s best interest:

- To foster and continue the relationship between the child and each parent when a court allocates parenting responsibilities;
- For the child’s parents to have substantial, meaningful, and developmentally appropriate parenting time with the child; and
- To have both parents participate in the decision-making regarding the child.

The bill adapts this public policy from an existing law provision stating that it is the purpose of the Revised Code chapter regarding children, when it is in the child’s best interest, to foster the relationship between the child and each parent when a court allocates parental rights and responsibilities.<sup>1</sup>

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<sup>1</sup> R.C. 3109.401(B).

## **Allocation of parenting responsibilities in a parenting plan**

### **Allocation of parenting responsibilities in a parenting plan**

The bill requires a court to make an order for the disposition, care, and maintenance of children of a marriage through the allocation of “parenting responsibilities” in any proceeding pertaining to the allocation of parenting responsibilities and upon granting a divorce, annulment, dissolution of marriage, or legal separation. The bill defines “parenting responsibilities” to include all parental rights recognized by the United States Constitution and the Ohio Constitution and all of the following:

- Providing for the physical and emotional safety and well-being of a child, including physical living arrangements;
- Establishing and maintaining a loving, stable, consistent, and nurturing relationship with a child;
- Providing for the health care needs of a child;
- Providing for the educational needs of a child;
- Providing for the financial needs of a child;
- Attending to the needs of a child for discipline, daily personal care, supervision, and activities;
- Assisting a child in developing interpersonal relationships;
- Exercising judgment regarding a child’s welfare consistent with a child’s developmental stage or special needs;
- Making decisions and performing other duties relating to the welfare of a child;
- Exercising parenting time.

The bill defines a “parent” as a person who is determined to be any of the following:

- A child’s mother through the following:
  - Proof of her having given birth to the child;
  - Pursuant to current laws establishing parentage;
  - Adoption.
- A child’s father through the following:
  - Pursuant to acknowledgement of paternity or judicial or administrative proceedings pursuant to current laws establishing parentage;
  - Adoption.

The bill defines a “proceeding pertaining to the allocation of parenting responsibilities” to include a divorce, dissolution of marriage, legal separation, annulment, or any other related proceeding involving a child. A final decree in such a proceeding must include an allocation of

those responsibilities. Existing law requires a court to make an order for the disposition, care, and maintenance of children upon satisfactory proof of the cause in the complaint for divorce, annulment, or legal separation.<sup>2</sup>

The allocation of parenting responsibilities must be encapsulated in a parenting plan approved or issued by the court. The bill defines a “parenting plan” as a plan to allocate the parenting responsibilities of parents or a legal custodian that meets the requirements of the bill. A parenting plan must ensure that parents share in the responsibilities of raising a child, enable a child to enjoy meaningful relationships with both parents, and maximize parenting time with each parent when it is in the child’s best interest (see “**Parenting plan requirements**,” below). The bill specifies that the allocation of parenting responsibilities in a parenting plan does not abrogate parental rights recognized by the United States Constitution or Ohio Constitution.<sup>3</sup> In accordance with this provision and the inclusion of all parental rights recognized by the United States Constitution and the Ohio Constitution in the definition of “parenting responsibilities,” the bill maintains many existing law references to “parental rights” regarding the allocation or exercise of “parental rights and parenting responsibilities.”

By requiring parenting plans, the bill repeals, in favor of its new scheme, all provisions specific to shared parenting (when both parents are considered the residential parent and legal custodian of the child, colloquially known as “joint custody”), sole custody (when only one parent is considered the residential parent and legal custodian of the child), and split custody (when each parent is the residential parent and legal custodian of at least one child), as well as the decrees and orders corresponding to these arrangements.<sup>4</sup>

### **Elimination of parenting time orders**

The bill redefines “parenting time” as the time that a parent is responsible for the child under a parenting plan, and is included as one of the parenting responsibilities that must be addressed in a parenting plan (discussed above under “**Parenting plan**”).<sup>5</sup> Under current law, parenting time is the amount of time that a nonresidential parent spends with a child (colloquially known as “visitation”) when the court does not issue a shared parenting decree. In those situations, the court issues parenting time orders that govern the nonresidential parent’s time with the child.<sup>6</sup> The bill, in relation to eliminating shared parenting, sole custody, and split custody, also eliminates parenting time orders. The bill also repeals a provision that required each court of common pleas to adopt rules regarding standard parenting time guidelines on or before July 1, 1991.<sup>7</sup> Instead, the bill specifies that, upon its enactment, the General Assembly

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<sup>2</sup> R.C. 3109.041, 3105.21, and 3109.04(A)(16), (20), and (22).

<sup>3</sup> R.C. 3109.04(19), 3109.042, and 3109.044.

<sup>4</sup> R.C. 3109.04 and 3109.051 and conforming changes in various other sections, as those sections appear in existing law.

<sup>5</sup> R.C. 3109.04(A)(21).

<sup>6</sup> R.C. 3109.051(A) and (C) to (F), as it appears in current law.

<sup>7</sup> R.C. 3109.051(F)(2), as it appears in current law.

requests each court with jurisdiction over domestic relations matters to review and update the court's local rules regarding parenting time to comply with the act's provisions, including the public policy of the state (see "**Public policy of the state**," above).<sup>8</sup>

### **Parenting plan requirements**

The bill states that the purpose of a parenting plan is to allocate the parenting responsibilities of all parents or legal custodians (but see "**Legal custodians when no parent is suitable**," below). The bill requires all of the following to be included in a plan:

- Provisions regarding each child's needs that are consistent with the child's age, developmental stage, maturation, and special needs;
- The designation of a parent or legal custodian as the designated parent and legal custodian for the following purposes:
  - Paying and receiving child support and cash medical support pursuant to worksheets provided under existing law;
  - Determining the school district of attendance;
  - Providing health care coverage;
  - Claiming the child as a dependent for income tax purposes;
  - For any other purpose requiring designation of one parent or legal custodian, including public assistance, international treaty enforcement, or state or federal law.
- The parenting time schedule for weekdays, weekends, holidays, days that hold special meaning to the child, parents, or legal custodian, vacations, and other times;
- The frequency, time, and method of the child's communication with a parent or legal custodian during the parenting time;
- The allocation of decision-making and other responsibilities related to the welfare of the child, including education, child care, health care, and school and extra-curricular activities;
- The procedure for parenting time, including the meeting location and the person responsible for transportation;
- The frequency and method for the parents or legal custodians to communicate with each other about the child;
- The process of information sharing and right to access the child's school records, health records, records of the childcare facilities, and school and extra-curricular activities;
- Any geographical restriction on relocation of the child and notification procedure prior to the relocation of the child (see "**Notice of intent to relocate**," below);

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<sup>8</sup> Section 4.

- Each parent’s or legal custodian’s responsibility for the child’s financial support, consistent with the laws regarding child support determination and calculation;
- Procedures for the parents or legal custodians to resolve disputes through nonadversarial dispute resolution processes (see “**Use of dispute resolution**,” below);
- Each parent’s or legal custodian’s responsibility to provide written notification to the other parent or legal custodian and the court of a change of contact information, including street address, mailing address, email address, or telephone number (see “**Notice of intent to relocate**,” below);
- Any other provisions required by statute or the court.<sup>9</sup>

“Designated parent and legal custodian” is defined in the bill as a parent or legal custodian designated for any of the purposes listed under the second bullet above under a court order allocating parenting responsibilities.<sup>10</sup>

In allocating or approving parenting responsibilities in a parenting plan, the court must ensure that the plan meets all of the above requirements and that it is in the best interest of the child (see “**Best interest factors**,” below).<sup>11</sup>

### **Filing deadline**

The bill requires a parenting plan to be filed no later than 30 days before a hearing to determine the allocation of parenting responsibilities. However, the court may waive the deadline for good cause shown.<sup>12</sup>

### **Court approval**

The bill allows a parent or legal custodian to file separate parenting plans or a joint parenting plan. If the parents file a joint parenting plan and the court finds that the plan’s provisions are in the best interest of the child, the court must approve it. If the court finds that the plan is not in the best interest of the child, the court must provide written findings of fact to support its finding and either allow the parents or legal custodians to make appropriate changes to resolve the court’s objections or issue its own plan.<sup>13</sup> Current law provisions regarding jointly filed shared parenting plans also require the court to approve a plan that is determined to be in the best interest of the child and for the court to require the parents to make appropriate changes to a plan to meet the court’s objections if it is not in the best interest of the child.<sup>14</sup>

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<sup>9</sup> R.C. 3109.044.

<sup>10</sup> R.C. 3109.04(B).

<sup>11</sup> R.C. 3109.049.

<sup>12</sup> R.C. 3109.045.

<sup>13</sup> R.C. 3109.045 and 3109.046.

<sup>14</sup> R.C. 3109.04(D)(1)(a)(i), as it appears in current law.

If the parents or legal custodians file one or more separate parenting plans, the court must review each plan to determine whether the plan is in the best interest of the child. If the court finds that one of the plans is in the best interest of the child, the court must approve that plan and, if more than one separate parenting plan was filed, provide written findings of fact to support its finding that the other separate parenting plan is not in the best interest of the child. If the court finds that none of the plans is in the best interest of the child, the court must provide written findings of fact to support its finding and either allow the parents or legal custodians to make appropriate changes to resolve the court's objections or issue its own plan.<sup>15</sup> Current law provisions regarding separately filed plans allow a court to approve the plan that it determines is in the best interest of the child. If the court determines that neither filed plan is in the best interest of the child, the court may order each parent to submit appropriate changes to the selected plan to meet the court's objections and to approve the subsequent plan.<sup>16</sup>

If either a joint parenting plan or a separate parenting plan includes a provision for substantially equal parenting time, the court may deny the request if it determines that it is not in the best interest of the child, endangers the safety of the parties, or for other good cause shown, and provides written findings of fact to support its determination.<sup>17</sup>

If no parent or legal custodian files a parenting plan, the court must issue its own parenting plan.<sup>18</sup>

The bill prohibits the court from approving or issuing more than one parenting plan to be in effect at a time.<sup>19</sup> The court has complete discretion over the approval of a parenting plan.<sup>20</sup> Current law also provides that the approval of a shared parenting plan is discretionary with the court, and that the court cannot approve more than one parenting plan. However, in contrast to the bill, current law does not authorize the court to issue its own plan.<sup>21</sup>

### **No preference based on financial status or gender**

The bill amends current law to specify that when the issue of parenting responsibilities is brought before the court, the best interest of the child must be paramount. The court is prohibited from giving preference to a parent or legal custodian because of that person's financial status or gender. The bill repeals a provision of law specifying that when husband and wife are living separately or divorced and questions regarding parental rights and responsibilities for the

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<sup>15</sup> R.C. 3109.047.

<sup>16</sup> R.C. 3109.04(D)(1)(a)(ii), as it appears in current law.

<sup>17</sup> R.C. 3109.046 and 3109.047.

<sup>18</sup> R.C. 3109.048.

<sup>19</sup> R.C. 3109.0410.

<sup>20</sup> R.C. 3109.0412.

<sup>21</sup> R.C. 3109.04(D)(1)(b), as it appears in current law.

care of the children, place of residence, and legal custody of the children arise, the parents must “stand upon an equality” on those issues.<sup>22</sup>

### **No presumptions from temporary orders**

In allocating or approving parenting responsibilities in a parenting plan, the bill prohibits the court from drawing any presumptions from a temporary parenting order (see “**Temporary parenting plans**,” below).<sup>23</sup>

### **Restrictions on the allocation of parenting responsibilities**

In any proceeding pertaining to the allocation of parenting responsibilities, the bill allows the court to approve or order a restriction of parenting responsibilities if the court finds, based on a preponderance of evidence, that the restrictions are reasonably calculated to protect a child from physical, sexual, or emotional abuse, or a parent from domestic violence.<sup>24</sup> Under the bill, the court may restrict a parent or legal custodian’s parenting time; right to make decisions; access to a child’s records, activities, school, or child care facility; or right to receive a notice of intent to relocate or change of contact information on finding that one or more of the following applies to the parent or legal custodian:

- Willful neglect, or substantial nonperformance, of parenting responsibilities;
- Long-term emotional or physical impairment that interferes with parenting responsibilities;
- Impairment from alcohol, drug, or other substance abuse that interferes with parenting responsibilities;
- The absence or substantial impairment of ties between the parent or legal custodian and a child;
- Conduct that creates a danger to the child’s psychological, social, cognitive, emotional, or physical development;
- Denial of access of the other parent or legal custodian to the child for protracted periods of time without justifiable cause;
- Physical, sexual, or emotional abuse of the child;
- An act of domestic violence, a sexually oriented offense, or an assault that caused serious bodily injury or placed another person in fear of imminent serious physical harm;
- Knowingly consenting to a child being in the presence of a person who has committed any act that would constitute the commission of any sexually oriented offense, offense of violence, or act that would have resulted in a child being abused or neglected in Ohio;

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<sup>22</sup> R.C. 3109.03 and 3109.0430(B).

<sup>23</sup> R.C. 3109.0411.

<sup>24</sup> R.C. 3109.0455.

- Any other relevant factor that affects the best interest of a child.<sup>25</sup>

If the court finds any of the above, it may impose the following types of restrictions on a parent or legal custodian:

- Ordering decision-making authority to one parent or legal custodian;
- Restricting parenting time;
- Prohibiting overnight parenting time;
- Ordering the exchange of a child to occur with a neutral party or in a protected setting;
- Ordering supervised parenting time;
- Ordering payment of any costs associated with parenting time;
- Ordering the perpetrator of domestic violence, child abuse, or child neglect to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators of domestic violence, child abuse, or child neglect or other counseling as a condition of contact or parenting time;
- Ordering abstention from possession or consumption of alcohol, controlled substances, or illegal substances;
- Requiring a bond;
- Prohibiting all contact or parenting time with a child, if the court finds other restrictions on parenting time will not adequately protect a child, parent, or legal custodian who is a victim of domestic violence from an unreasonable risk of harm or abuse;
- Imposing any other condition to provide for the safety of a child, parent, or legal custodian who is a victim of domestic violence.<sup>26</sup>

The court may approve or issue a parenting plan without any restrictions only if it determines, with specific written findings of fact supporting its determination, that: (1) the parenting plan is in the best interest of a child and (2) the court provides protections that adequately protect the safety and well-being of the child, if any of the following apply:

- A parent, legal custodian, or member of the family or household has been convicted of or pleaded guilty to domestic violence or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding;
- A parent, legal custodian, or member of the family or household has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission

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<sup>25</sup> R.C. 3109.0456.

<sup>26</sup> R.C. 3109.0457.

of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense;

- A parent, legal custodian, or member of the family or household has committed acts that resulted in a child being adjudicated an abused or neglected child, or previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused or neglected child, or there is reason to believe that a parent or legal custodian has acted in a manner resulting in a child being an abused or neglected child.<sup>27</sup>

### **Legal custodian when no parent is suitable**

The bill allows a court to designate a relative or kinship caregiver as the legal custodian of a child or certify the matter to the juvenile court if the court determines that no parent is found suitable to be allocated parenting responsibilities under a parenting plan. This designation must be in the child's best interest.<sup>28</sup> If the matter is certified to the juvenile court, the juvenile court has exclusive jurisdiction over the establishment and issuance of a decree that incorporates a parenting plan and must do so in accordance with the bill's provisions.<sup>29</sup>

The bill defines a "legal custodian" as a person vested with legal custody of a child by law or awarded by a court of competent jurisdiction. "Legal custody" means a legal status that vests in a person the right to have physical care and control of the child and to exercise parenting responsibilities as defined in the bill and as authorized by any other section of the Revised Code or by the court.<sup>30</sup> The bill's definition of "kinship caregiver" is the same as in current law, for purposes of the Statewide Kinship Care Navigator Program. It means any of the following who is 18 years old or older and is caring for the child in place of the child's parents:

- The following individuals related by blood or adoption to the child:
  - Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";
  - Siblings;
  - Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";
  - First cousins and first cousins once removed.
- Stepparents and stepsiblings of the child;
- Spouses and former spouses of individuals named in the dot points above;

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<sup>27</sup> R.C. 3109.0458.

<sup>28</sup> R.C. 3109.0414.

<sup>29</sup> R.C. 3109.0415.

<sup>30</sup> R.C. 3109.04(A)(10) and (11).

- A legal guardian or legal custodian of the child;
- Any nonrelative adult that has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child's social ties.<sup>31</sup>

The bill allows a court to find a parent to be unsuitable only if the preponderance of evidence demonstrates any of the following:

- The parent abandoned the child;
- The parent contractually relinquished custody of the child;
- The parent has become completely incapable of supporting or caring for the child;
- An award of custody to the parent would be detrimental to the child.<sup>32</sup>

A legal custodian who has been appointed by the court (including a juvenile court, if the case has been certified) may submit a parenting plan.<sup>33</sup>

Current law allows the court to commit the child to a relative (rather than a relative or kinship caregiver) or certify a copy of its findings, together with as much of the record and further information that it considers necessary or as the juvenile court requests and give the juvenile court exclusive jurisdiction over the matter upon certification.<sup>34</sup>

### **When a child is born to an unmarried woman**

Under the bill, an unmarried female who gives birth to a child is the sole designated parent and legal custodian of the child (rather than residential parent, as under current law) until a court of competent jurisdiction issues an order allocating parenting responsibilities for the child.<sup>35</sup> If the court designates another person, it must consider the best interest of the child to be paramount. As is the case when parents are living separate and apart from each other or are divorced, the court is prohibited from giving preference to a parent or legal custodian because of that person's financial status or gender.<sup>36</sup>

The bill also mostly maintains a current law provision specifying that if an unmarried female has been convicted of or pleaded guilty to rape or sexual battery of the other parent of the child, the unmarried female is prohibited from being the designated parent (rather than residential parent, under current law) and legal custodian of the child, unless the court

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<sup>31</sup> R.C. 3109.04(A)(9); R.C. 5101.85, not in the bill.

<sup>32</sup> R.C. 3109.0416.

<sup>33</sup> R.C. 3109.0417.

<sup>34</sup> R.C. 3109.04(D)(2), as it appears in current law.

<sup>35</sup> R.C. 3109.0424; R.C. 3109.042(A), as it appears in current law.

<sup>36</sup> R.C. 3109.0425.

determines that special circumstances permit it. Current law, however, does not specify an exception for special circumstances.<sup>37</sup>

The bill also makes changes to the law regarding the allocation of parenting responsibilities when a child is born to an unmarried woman. Under the bill, when a father has established parentage, either the mother or father may file a complaint requesting the allocation of parenting responsibilities. Under existing law, the father may file a complaint to grant him reasonable parenting time rights.<sup>38</sup> The court must waive the initial filing fee for the complaint.<sup>39</sup> The bill requires the court to hold a hearing within 30 days after a complaint is filed and served, unless for good cause shown or: (1) either parent files a motion for a temporary order or both parents file a motion for a joint parenting plan, and (2) the court issues a temporary order or approves the joint parenting plan.<sup>40</sup>

### **Modification of parenting plans**

The bill repeals the current law governing modification or termination of prior allocations of parental rights and responsibilities in favor of a new modification scheme.<sup>41</sup>

#### **Modifications agreed upon**

To request an agreed-upon modification by all parties to an existing parenting plan, the bill requires the parents or legal custodian to file: (1) a motion requesting that the prior parenting plan be modified and (2) the proposed agreed entry. The court may approve the motion and the proposed agreed entry or conduct a hearing on the proposed agreed entry. The court may only modify a prior parenting plan if it finds the modification to be in the child's best interest.<sup>42</sup>

#### **Modifications not agreed upon**

If one party wants to make a modification that all parties do not agree to, one parent or legal custodian must file a motion requesting that the prior parenting plan be modified. The motion must set forth: (1) the specific modification sought, (2) the change of circumstances of the parent, legal custodian, or child, and (3) why the modification is in the best interest of the child.<sup>43</sup> The court may only modify the prior parenting plan upon finding all of the following:

- A change of circumstances of a parent, legal custodian, or the child. The court may conduct a hearing to determine whether a change of circumstance has occurred since the prior parenting plan was approved.

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<sup>37</sup> R.C. 3109.0426; R.C. 3109.042(B), as it appears in current law.

<sup>38</sup> R.C. 3109.12(A)(1).

<sup>39</sup> R.C. 3109.12(A)(2).

<sup>40</sup> R.C. 3109.12(B)(2).

<sup>41</sup> R.C. 3109.0418 to 3109.0420; R.C. 3109.04(E) and (F), as it appears in current law.

<sup>42</sup> R.C. 3109.0418.

<sup>43</sup> R.C. 3109.0419(A).

- The modification is in the child’s best interest.
- One of the following applies:
  - All parties to the proceeding agree to the modification;
  - The child has been integrated into the family of the parent or legal custodian seeking modification with the consent of the other parent or legal custodian;
  - The advantages of the modification outweigh any harm to the child.<sup>44</sup>

### **Bad faith or frivolous modification**

The bill allows a court to assess reasonable attorney fees and litigation expenses if it finds that a motion to modify a prior parenting plan was brought in bad faith or the party’s actions constituted frivolous conduct, as defined under current law.<sup>45</sup>

### **Modifications and review of child support orders**

The bill clarifies that these modification provisions do not limit the authority of a child support enforcement agency to review a child support order in accordance with existing law.<sup>46</sup>

### **Appeals must be handled expeditiously**

The bill provides that if an appeal is taken from an order of a court that grants or modifies parenting responsibilities in a parenting plan, the court of appeals must give the case calendar priority and handle it expeditiously.<sup>47</sup>

### **Temporary parenting plans**

The bill recodifies and slightly changes current law that allows the court, without oral hearing and for good cause shown, to make a temporary order regarding the allocation of parenting responsibilities (as opposed to parental rights and responsibilities under current law) in a pending action pertaining to the allocation of parenting responsibilities. The court may make the temporary order when it is requested in a motion, upon satisfactory proof by affidavit duly filed with the clerk of court.<sup>48</sup>

The bill also enacts a new provision specifying that if the court has issued a temporary order without an oral hearing, a party may file a written request for an oral hearing to modify the order. The court must conduct an oral hearing no later than 28 days after the filing of the request, unless good cause is shown.<sup>49</sup>

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<sup>44</sup> R.C. 3109.0419(B).

<sup>45</sup> R.C. 3109.0420.

<sup>46</sup> R.C. 3109.0421.

<sup>47</sup> R.C. 3109.0428.

<sup>48</sup> R.C. 3109.0422; R.C. 3109.043, as it appears in current law.

<sup>49</sup> R.C. 3109.0423.

Finally, the bill repeals law that allows the court, in determining temporary parenting responsibilities when the father has not established parentage, to consider whether the putative father is named on the child's birth record or the child has the putative father's surname. The bill instead allows the court to consider the existence of a clear pattern of a parent and child relationship between the child and the person seeking to establish parentage, rather than between the child and the putative father.<sup>50</sup>

### **Active military service**

The bill recodifies and mostly maintains current law provisions regarding active military service and its impact on the allocation and modification of parental rights and responsibilities and orders for parenting time. Those existing provisions address notification of upcoming active military service, court hearings, and temporary or permanent orders allocating or modifying parental rights and responsibilities or parenting time orders to accommodate the child's care during such service.

The bill, however, makes a few alterations. As a matter of terminology, the bill modifies the law to apply to allocations of parental responsibilities in a parenting plan (which now includes parenting time as discussed above). The bill also replaces the term "parent" with "party" to be inclusive of legal custodians. Additional changes to the bill are discussed below.

### **Combining parental responsibilities and parenting time**

The bill combines into one process the two current law processes regarding active military service and its impact on (1) orders allocating parental responsibility and (2) parenting time orders. The bill primarily uses the current law process for active military service regarding allocations of parental rights and responsibilities as the pattern for the combination of the two processes.<sup>51</sup>

### **Three-day notice in pending cases**

The bill retains the requirement that notice be made to the other parent regarding a parenting responsibilities allocation order within three days of receipt of active military service orders, but eliminates the same notice for pending proceedings for such an order.<sup>52</sup>

### **Modification limitations**

The bill eliminates the ability of the court, pursuant to specific findings of fact, to modify a prior allocation decree if both of the following apply:

- There has been a change in circumstances of the child or the parents;

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<sup>50</sup> R.C. 3109.0497 (renumbered from R.C. 3109.043).

<sup>51</sup> R.C. 3109.0482 to 3109.0490; R.C. 3109.04(I) and (J)(2) and (5) and 3109.051(M) and (O)(2), as those sections appear under current law.

<sup>52</sup> R.C. 3109.04(I)(1), as it appears in current law.

- Modification serves the child's best interests.<sup>53</sup>

### **New temporary order provisions**

The bill adds the following as provisions that may be included in a temporary order regarding parenting responsibilities for the duration of a parent's active military service:

- Delegate all or part of the parent's parenting time with the child to a relative or another person who has a close and substantial relationship with the child;
- Require the other parent to make the child reasonably available for parenting time with the parent when the parent is on leave from active military service;
- Require the other parent to facilitate contact, including telephone and electronic contact, between the parent and the child while the parent is on active military service.<sup>54</sup>

### **Additional provisions re: proceedings to allocate parenting responsibilities**

#### **Best interest factors**

The bill includes factors a court must consider for determining the best interest of a child for purposes of allocating parenting responsibilities. Some of the factors are adapted from current law best-interest factors for allocating parental rights and responsibilities for the care of children (including shared parenting). But, most of the adapted factors have been modified and some of the current law factors have been eliminated, such that the bill's list should be treated as a new list altogether.<sup>55</sup> The bill's factors include:

- The wishes of the child's parents or legal custodian regarding the child's care;
- The wishes and concerns of the child;
- The relative strength, nature, and stability of the child's relationship with each parent or legal custodian and the parent's or legal custodian's interest in the child;
- The child's interaction and interrelationship with siblings, relatives, and any other persons who may significantly affect the child's best interest;
- The child's involvement with school, the community, and other significant activities;
- The emotional, mental, and physical health of all persons involved;
- The child's age; developmental stage; and emotional, mental, physical, educational, and special needs;
- The willingness and ability of the parents or legal custodian to communicate effectively with each other and with the child;

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<sup>53</sup> R.C. 3109.04(1)(2), as it appears in current law.

<sup>54</sup> R.C. 3109.0487(B).

<sup>55</sup> See R.C. 3109.04(F), as it appears in current law.

- Any current abuse or history of child abuse, spousal abuse, domestic violence, or parental kidnapping;
- Whether a parent or legal custodian has knowingly made a false report of child abuse or neglect;
- Whether a parent or legal custodian, without just cause, has repeatedly failed to be financially responsible for any child as ordered by a court;
- Whether a parent or legal custodian, without just cause, has repeatedly interfered with the other parent's or legal custodian's court-ordered access to the child;
- The willingness and ability of a parent or legal custodian to facilitate and encourage parenting time or companionship or visitation and a close and continuing relationship between the other parent or legal custodian and the child;
- A parent's or legal custodian's past performance and current ability to provide for the daily needs of the child, considering the parent's or legal custodian's employment schedule and the child's school, child care, and activity schedule;
- The child's physical environment;
- Whether a parent or legal custodian has established a residence or is planning to establish a residence outside this state;
- The geographic proximity of a parent or legal custodian;
- Any recommendation of the child's GAL;
- Any parenting coordination decisions (see "**Use of dispute resolution**," below);
- Any mediation agreements ("mediation" is defined as any process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute; "mediator" is defined as a person with special skills and training in mediation and who meets the qualifications adopted by the Supreme Court of Ohio, and by a court of common pleas pursuant to the Rules of Superintendence for the Courts of Ohio);
- Any report of a court-appointed or designated evaluator or investigator admitted into evidence;
- Whether a parent or legal custodian has failed to attend court-required parent education (see "**Counseling and parent education**," below);
- The safety of the child and the parents or legal custodian;
- Whether a parent or legal custodian intentionally misled the court to cause an unnecessary delay, increase the cost of litigation, or induce the court to give preference to that parent or legal custodian regarding decision-making powers or parenting time or companionship or visitation

- Whether a parent has unjustifiably failed to comply with the terms of a parenting plan (including a temporary parenting plan) or any other similar plan or order;
- Any other relevant factor.<sup>56</sup>

In making a best interest determination, the bill prohibits the court from considering any one factor to the exclusion of other factors. The bill also forbids the court to give preference to a parent or legal custodian on the basis of that person's financial circumstances or gender.<sup>57</sup>

### **Investigations and evaluations**

The bill recodifies and amends the requirements for investigations and evaluations for allocations of parenting responsibilities (known as parental rights and responsibilities under current law). The bill allows a court to order a parent, legal custodian, or child to submit to any of the following in any proceeding pertaining to the allocation of parenting responsibilities:

- The investigation of any relevant circumstances and conditions regarding the allocation of parenting responsibilities, including character, family relations, past conduct, earning ability, and financial capacity of the parties to meet parenting responsibilities;
- The evaluation of any relevant circumstances and conditions regarding the allocation of parenting responsibilities, including substance abuse, medical, psychological, or psychiatric interviews, tests, examinations, and assessments;
- The custody evaluation as described in the Rules of Superintendence for the Courts of Ohio.<sup>58</sup>

Current law provides that prior to trial, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability, and financial worth of each parent and may order the parents and their minor children to submit to medical, psychological, and psychiatric examinations.<sup>59</sup>

An investigator or evaluator must file a written, signed report of an investigation or evaluation in accordance with the Rules of the Supreme Court of Ohio. The court's investigator or evaluator may consult any person who may have relevant information. The bill defines "evaluator" as a person appointed or designated by the court to conduct inquiries or make recommendations regarding issues relating to the allocation of parenting responsibilities.<sup>60</sup>

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<sup>56</sup> R.C. 3109.0430(A) and 3109.04(A)(12) and (13)

<sup>57</sup> R.C. 3109.03 and 3109.0430(B) and (C).

<sup>58</sup> R.C. 3109.0439; Rule 91.04, [Rules of Superintendence for the Courts of Ohio \(PDF\)](#), which may be accessed on the Ohio Rules of Court section of the Ohio Supreme Court's website: [supremecourt.ohio.gov/laws-rules/ohio-rules-of-court/](http://supremecourt.ohio.gov/laws-rules/ohio-rules-of-court/).

<sup>59</sup> R.C. 3109.04(C), as it appears in current law.

<sup>60</sup> R.C. 3109.0440 and 3109.04(A)(7).

Current law provides that a signed report must be made available to either parent or the parent's counsel of record no less than five days before trial, upon written request.<sup>61</sup>

Similar to current law, the investigator (or also the evaluator, in the bill), must be subject to cross-examination by any party.<sup>62</sup> The court may apportion the costs related to an investigation or evaluation to the parties.<sup>63</sup> Current law provides that the court may tax as costs all or any part of the expenses for each investigation.<sup>64</sup>

### **Interviewing the child in chambers**

The bill allows the court to interview a child regarding the child's wishes and concerns regarding the allocation of parenting responsibilities, and requires such an interview if it is requested by either party. The court may conduct the interview in chambers or at another location designated by the court. This is similar to current law, except that current law does not specify that the interview may be conducted at another location designated by the court.<sup>65</sup>

The bill maintains a current law requirement for the court to determine, before conducting or completing an interview, whether the child has sufficient reasoning ability and that there are no special circumstances that would indicate the interview would not be in the best interest of the child. The bill repeals a current law requirement for the court to enter its findings of fact and opinion in the journal if the court finds that it would not be in the best interest of the child to determine the child's wishes and concerns.<sup>66</sup>

The bill requires the child, the child's attorney (if any), and any court personnel deemed necessary by the court, to be present for an interview. The child's GAL (see "**Court appointment of GAL**," below) may be present. Current law provides that no person other than the child, the child's attorney, the judge, any necessary court personnel, and in the judge's discretion, the attorney of each parent, is permitted to be present during the interview.<sup>67</sup>

The bill allows a parent or legal custodian to submit written questions to the court that the court may use during the interview.<sup>68</sup> The bill specifies that the court must record an interview, and that only the court and appellate courts may have access to the record of the interview.<sup>69</sup> No such similar provisions are in current law.

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<sup>61</sup> R.C. 3109.04(C), as it appears in current law.

<sup>62</sup> R.C. 3109.0441; R.C. 3109.04(C), as it appears in current law.

<sup>63</sup> R.C. 3109.0442.

<sup>64</sup> R.C. 3109.04(C), as it appears in current law.

<sup>65</sup> R.C. 3109.0445; R.C. 3109.04(B)(1) and (B)(2)(c), as it appears in current law.

<sup>66</sup> R.C. 3109.0446; R.C. 3109.04(B)(2)(b), as it appears in current law.

<sup>67</sup> R.C. 3109.0449; R.C. 3109.04(B)(2)(c), as it appears in current law.

<sup>68</sup> R.C. 3109.0450.

<sup>69</sup> R.C. 3109.0451.

### **Attorney cannot discuss matters with child**

The bill also prohibits an attorney representing a parent or legal custodian in a proceeding pertaining to the allocation of parenting responsibilities from discussing the issue of parenting responsibilities with a child who is the subject of the proceeding, unless such discussions are otherwise permitted by law.<sup>70</sup>

### **Court appointment of GAL**

Under the bill, the court may (or must, if otherwise required by law) appoint a GAL for a child in any proceeding pertaining to the allocation of parenting responsibilities. The bill repeals a current law provision that appears to make the appointment dependent on whether a child is interviewed.<sup>71</sup> A GAL is defined as a person appointed to assist a court in its determination of the best interest of a child.<sup>72</sup>

The bill requires the GAL to serve in the best interest of the child and owe a duty of candor to the court.<sup>73</sup> The GAL must be served with all pleadings and given notice of all hearings and other proceedings in the same manner as service is made, or notice is given, to the parties to the actions.<sup>74</sup>

### **Court appointment of child's attorney**

The bill also allows the court to appoint, at its discretion, an attorney for a child in any proceeding pertaining to the allocation of parenting responsibilities.<sup>75</sup> An appointment must include:

- The rate, amount, and method of payment for compensation to the attorney and the determination of the ability of any party to pay the attorney's fees and costs;
- The allocation of fees payable by each party and any other source of compensation to the attorney;
- Any reimbursement of fees and costs to be made between the parties or to any other source;
- The terms and amount of any installment payments;
- A statement that the court may modify the allocation of fees and costs.<sup>76</sup>

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<sup>70</sup> R.C. 3109.0453.

<sup>71</sup> R.C. 3109.0461; R.C. 3109.04(B)(2)(a), as it appears in current law.

<sup>72</sup> R.C. 3109.04(A)(8).

<sup>73</sup> R.C. 3109.0462.

<sup>74</sup> R.C. 3109.0463.

<sup>75</sup> R.C. 3109.0465.

<sup>76</sup> R.C. 3109.0466.

As with GALs, a child’s attorney must be served with all pleadings and given notice of all hearings and other proceedings in the same manner as service is made, or notice is given, to the parties to the action.<sup>77</sup> The bill prohibits an attorney serving as a child’s GAL from also serving as the child’s attorney, unless otherwise permitted by the Rules of the Supreme Court of Ohio.<sup>78</sup>

### **Counseling and parent and child education**

The bill allows the court to order, in any proceeding pertaining to the allocation of parenting responsibilities, a parent or legal custodian to participate in counseling with a licensed mental health professional or through community programs, including mental health, substance abuse, or other appropriate services.<sup>79</sup> The bill defines “counseling” to mean treatment with a mental health professional or community program providing mental health, substance abuse, or other supportive services.<sup>80</sup>

The bill also requires the court, in proceedings pertaining to the original allocation of parenting responsibilities, to order the parents or legal custodian to complete parent education, unless the proceeding involves allegations of abuse or neglect or a dependent, unruly, or delinquent child. “Parent education” means education for parents and legal custodians living apart or terminating their relationship to learn information and skills to minimize potential negative effects on children, promote positive adjustment during the process, and teach parents and legal custodians how to parent cooperatively. The court may, but is not required to, order parents or legal custodians to complete additional parent education.<sup>81</sup> The court may waive the parent education requirement for good cause shown.<sup>82</sup>

The court may also order any party to deliver a child to attend child education as appropriate to the child’s needs.<sup>83</sup> Under the bill, “child education” means education for a child to learn information, skills, and techniques for adjusting positively to parents living apart or terminating their relationship.<sup>84</sup>

The court must determine the method that the parents or legal custodians are to be notified of parent and child education.<sup>85</sup>

Current law also allows the court, by rule or otherwise, to require that parents obtain counseling or attend parenting classes before the court issues an order. However, unlike the bill, parenting classes are not required. The bill also repeals current law provisions specifying that the

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<sup>77</sup> R.C. 3109.0467.

<sup>78</sup> R.C. 3109.0468.

<sup>79</sup> R.C. 3109.0432.

<sup>80</sup> R.C. 3109.04(A)(5).

<sup>81</sup> R.C. 3109.0433 and 3109.04(A)(18).

<sup>82</sup> R.C. 3109.0434.

<sup>83</sup> R.C. 3109.0435.

<sup>84</sup> R.C. 3109.04(A)(2).

<sup>85</sup> R.C. 3109.0436.

children may attend counseling or classes with the parents and that if the court orders counseling or classes, the cost may be imposed on, or allocated between, the parents. However, the court may not do so if it determines that both parents are indigent.<sup>86</sup>

### **Use of dispute resolution**

The bill specifies that if the parties in a proceeding do not agree upon an appropriate allocation of parenting responsibilities or a specific schedule of parenting time for the children, the court may order the parties to attempt to resolve their differences in accordance with dispute resolution processes (instead of mediation procedures under existing law) adopted by the court by local rule. The bill repeals references to specific domestic violence- and abuse-related crimes that a court must consider when determining whether to order mediation and instead requires the court to consider any allegations of domestic violence relating to any of the parties when determining whether dispute resolution is appropriate.<sup>87</sup>

The bill defines “dispute resolution” as any process in which a neutral professional facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute, including arbitration procedures under existing law, co-parent coaching, mediation, neutral evaluation, and parenting coordination. “Co-parent coaching” is defined as a process of personalized inquiry and feedback that guides separated parents to take responsibility for reducing conflict; create effective plans for communication and decision-making; and foster a caring, stable, and supportive environment for children. “Neutral evaluation” is defined as a process in which the parties to a dispute present their claims or defenses and describe the principal evidence on which their claims or defenses are based to two neutral third parties who then share impressions about the strengths and weaknesses of each matter. Finally, “parenting coordination” is defined as a child-focused dispute resolution process ordered by a court to assist parties in implementing a parenting plan or companionship or visitation using assessment, education, case management, conflict management, coaching, or decision-making.<sup>88</sup>

The bill also repeals law specifying that if a court issues an order to require mediation, it also may order the parents to file a mediation report. This includes the repeal of law specifying the payment of mediation costs, standards for mediators and mediation that must be included in any local rules that are adopted, and specifications regarding mediation reports that are filed. The bill instead specifies that mediation procedures must be pursuant to the Uniform Mediation Act under existing law. Finally, the bill repeals law specifying that the court’s ability to order mediation does not apply to proceedings that are not for the allocation of parental rights and responsibilities or issues unrelated to the allocation of parental rights and responsibilities.<sup>89</sup>

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<sup>86</sup> R.C. 3109.053, as it appears in current law.

<sup>87</sup> R.C. 3109.052(A); conforming changes in R.C. 2317.02(H) and 3109.056.

<sup>88</sup> R.C. 3109.04(A)(4), (6), (15), and (17).

<sup>89</sup> R.C. 3109.052.

## Notice of intent to relocate

A relocating party must file a notice of intent to relocate with the clerk of the court where the order or decree was issued, and the clerk must send a copy of the notice to the last known address of any nonrelocating party.<sup>90</sup> The notice must be filed no later than 60 days before the date of the intended relocation or no later than ten days after the relocating party knew of the intended relocation, if the relocating party cannot meet the 60-day requirement, absent exigent circumstances.<sup>91</sup> The bill specifies that a relocation of a party or child's residence occurs when there is a change of address.<sup>92</sup>

The bill requires a notice to include all of the following:

- Updated residential address;
- Updated mailing address;
- Updated telephone number;
- Updated email address;
- Date of relocation;
- Notice to the nonrelocating party that any objection to the relocation must be filed not later than 30 days after receipt of the notice of intent to relocate.<sup>93</sup>

The bill also allows the court to take certain actions if the court finds that the health, safety, and welfare or liberty of a person, including a child, would be reasonably put at risk by the relocating party filing a notice of intent to relocate. If the court has not already made a prior filing, or upon the filing of a motion and making such a finding, the court may do any of the following:

- Order that the intent to relocate not be disclosed;
- Waive the notice requirement to the extent necessary to protect the confidentiality and the health, safety, and welfare of the child or party;
- Consider any other remedy deemed necessary to facilitate the legitimate needs of the parties and protect the best interest of the child;
- If appropriate, conduct an ex parte hearing. If the court issues an ex parte order, the court shall schedule a full hearing and give the parties notice of the date, time, and location of the hearing.<sup>94</sup>

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<sup>90</sup> R.C. 3109.0471.

<sup>91</sup> R.C. 3109.0472.

<sup>92</sup> R.C. 3109.0470.

<sup>93</sup> R.C. 3109.0473.

<sup>94</sup> R.C. 3109.0474.

If a party fails, without good cause, to file a notice of intent to relocate, the court may consider the failure as any of the following:

- A factor in making its determination regarding the relocation;
- A factor in determining a modification of the parenting plan;
- A basis for ordering the return of the child if the relocation has taken place without notice;
- A basis for awarding attorney fees and expenses;
- A factor in a finding of contempt.<sup>95</sup>

When making the above considerations, the court cannot consider that the child has been integrated in the new surroundings, unless there is good cause shown.<sup>96</sup>

The bill allows a nonrelocating party to file a motion objecting to a relocation and seek an order restricting the relocation when the relocation would render any portion of the parenting plan impracticable, not in the child's best interest, or violate restrictions in the plan.<sup>97</sup> This motion must be filed no later than 30 days after the receipt of the notice of intent to relocate, or else the objection is waived.<sup>98</sup> Upon the filing of a motion, the court must conduct a hearing and all matters relating to the relocation objection proceedings must be given priority scheduling.<sup>99</sup>

In making a decision on a proposed temporary or permanent relocation, the bill establishes a number of factors that the court must consider (in addition to the existing best interest factors – see “**Best interest factors**,” above), in order to foster a continuing meaningful relationship between the child and the nonrelocating party. These factors include:

- The reason presented for seeking or opposing the relocation;
- The realistic ability to preserve the relationship between the child and the nonrelocating party through any proposed new arrangements that consider the logistics and costs of contact, access, and parenting time;
- The effect the relocation will have on the child's relationship with extended family;
- The enhancement of the quality of life for the child and the relocating party that the relocation may afford;
- Whether a party is subject to the restrictions (see “**Restrictions on the allocation of parenting responsibilities**,” above);
- The child's stability;

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<sup>95</sup> R.C. 3109.0475(A).

<sup>96</sup> R.C. 3109.0475(B).

<sup>97</sup> R.C. 3109.0476.

<sup>98</sup> R.C. 3109.0477.

<sup>99</sup> R.C. 3109.0478.

- Any other factor the court determines relevant.<sup>100</sup>

These provisions are adapted from, but make many changes to, current law provisions regarding notice of relocation when a court grants parenting time rights to a parent who is not the residential parent.<sup>101</sup>

## Companionship or visitation

The bill recodifies current law provisions regarding companionship and visitation, but largely maintains that law. Those provisions address who may ask for companionship and visitation, the process for seeking them, including the factors a court must consider and the effect of parental remarriage.<sup>102</sup>

The bill, however, requires the court to give special weight to the parents' wishes regarding the child when it determines that granting companionship or visitation is in the best interest of the child. This is one of three requirements that must be met for a court to grant companionship or visitation. The other two existing law requirements are: (1) the relative, person who has served as a kinship caregiver, or other person files a motion seeking companionship or visitation and (2) the court determines that the individual has an interest in the welfare of the child.<sup>103</sup> The bill also adds to the provisions on interviewing a child in chambers regarding the child's wishes and concerns. These additional provisions are similar to those regarding interviewing a child in chambers in a proceeding pertaining to the allocation of parenting responsibilities (see "**Interview child in chambers re: wishes and concerns**"). They include the following:

- The interview may be conducted either in chambers or in another location that the court designates (existing law only specifies that the interview may be conducted in chambers);
- Before conducting the interview, the court must determine that the child has sufficient reasoning ability and that there are no special circumstances that would indicate the interview would not be in the best interest of the child;
- The child, attorney for the child (if any), and any court personnel deemed necessary by the court must be present at an interview;
- The court may have the child's guardian ad litem present during the interview;
- The court must allow a person seeking companionship or visitation to submit written questions that the court may use during the interview;

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<sup>100</sup> R.C. 3109.0479.

<sup>101</sup> R.C. 3109.051(G), as it appears in current law.

<sup>102</sup> R.C. 3109.054 to 3109.0512; R.C. 3109.051(B) to (F) and (L), as it appears in current law.

<sup>103</sup> R.C. 3109.054(C).

- The court must record the interview. Only the court and appellate courts have access to the recording.<sup>104</sup>

The bill also changes individuals who are eligible for companionship or visitation from “any grandparent, any person related to the child by consanguinity or affinity, or any other person other than a parent” to “a relative, person who has served as a kinship caregiver, or any other person related to the child by consanguinity or affinity, other than a parent.” “Companionship or visitation” is defined as time that these individuals are responsible for the child under a companionship or visitation order.<sup>105</sup>

### **Supervision of parenting time or companionship or visitation**

The bill requires the court to approve or designate a supervisor of parenting time or of companionship or visitation. The supervisor must adhere strictly to the terms ordered by the court and be willing and able to protect a child from harm. The court must revoke approval of the supervisor upon a finding that the supervisor failed to protect the child, is not able to adhere to the terms ordered by the court, or is no longer willing or able to protect the child.<sup>106</sup>

### **Interference with parenting time or companionship or visitation**

The bill allows a party to file a motion alleging interference with parenting time or companionship or visitation. A motion must include all of the following:

- The date that the court awarded the parenting time or companionship or visitation;
- A description of the parenting time or companionship or visitation that was awarded;
- The dates when interference led to the loss of parenting time or companionship or visitation and the amount of time lost;
- A description of any efforts made to exercise parenting time or companionship or visitation;
- Any relief requested.

Upon the filing of a motion, the court must hold an initial hearing within 28 days after service unless for good cause shown.<sup>107</sup> Any time before a ruling upon this motion, the court may issue temporary orders necessary to protect the relationship between the parent or legal custodian and the child.<sup>108</sup>

After the hearing, if the court finds that there has been unreasonable interference with parenting time or companionship or visitation, the court may issue any of the following:

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<sup>104</sup> R.C. 3109.058 and 3109.059.

<sup>105</sup> R.C. 3109.054 and 3109.04(A)(3); R.C. 3109.051(B)(1), as it appears in current law.

<sup>106</sup> R.C. 3109.0459.

<sup>107</sup> R.C. 3109.0491.

<sup>108</sup> R.C. 3109.0492.

- A modified parenting plan or amended order to prevent future interference with parenting time or companionship or visitation in the best interest of a child;
- An order for compensatory parenting time or companionship or visitation;
- An order for supervised parenting time or companionship or visitation or exchanges;
- An order to require a parent, legal custodian, or the child to attend counseling, education, or coaching;
- An order to post bond, either in cash or with sufficient sureties, conditioned upon compliance with the order granting parenting time or companionship or visitation;
- An award of reasonable costs and fees for legal counsel and litigation, mediation, counseling, parent and child education, supervised parenting time, or companionship or visitation or exchange, and court costs;
- Any other remedy that the court considers appropriate.<sup>109</sup>

The bill repeals current law interference provisions, which provide that if any person is found in contempt of court for failing to comply with or interfering with parenting time rights or companionship or visitation, the court must assess all court costs and reasonable attorney's fees arising out of the contempt proceeding against that person and may award reasonable compensatory parenting time or visitation in the best interest of the child.<sup>110</sup>

## **Child support**

The bill requires that in any action or proceeding in which a child support order is issued or modified, the court (for court child support orders) and the child support enforcement agency (for administrative child support orders) must: (1) determine the person or persons responsible for the payment of child support, (2) determine the person or agency entitled to receive the child support, and (3) include the applicable completed worksheet with the issuance of the new or modified child support order.<sup>111</sup>

The bill changes definitions under the laws regarding child support calculation. First, "court-ordered parenting time" means the amount of parenting time, as defined by the bill, under a court order allocating parenting responsibilities. Current law defines it as the amount of parenting time a parent is to have under a parenting time order or the amount of time the children are to be in the physical custody of a parent under a shared parenting order. Second, the bill updates the definition of "split parental rights and responsibilities" to clarify that its current law definition applies only to a decree allocating parental rights and responsibilities that was issued before the enactment of this bill. Under that definition, which is unchanged by the bill, the term refers to a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and

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<sup>109</sup> R.C. 3109.0493.

<sup>110</sup> R.C. 3109.051(K), as it appears in current law.

<sup>111</sup> R.C. 3119.072.

legal custodian of at least one of those children. Finally, the bill establishes the term, “split parenting responsibilities” and defines it as a situation in which there is more than one child who is the subject of an allocation of parenting responsibilities and one parent is the designated parent and legal custodian of at least one child and the other parent is the designated parent and legal custodian of at least one other child under a parenting plan that is approved by the court and included in an order that the court issues.<sup>112</sup>

The bill provides that the current law provisions regarding the effect of child custody on the calculation of child support apply only to parents under a decree allocating parental rights and responsibilities that was issued prior to the enactment of this bill. It also clarifies that under existing law: (1) the residential parent and legal custodian’s child support obligation is calculated and presumed (rather than only presumed) to be spent on the child and is not payable as (rather than does not become) part of a child support order and (2) the other parent’s child support obligation is calculated and ordered to be paid as (rather than becomes) part of a child support order.<sup>113</sup>

The bill establishes new provisions with regard to the effect of child custody on the calculation of child support after the bill’s effective date. For parents under an order allocating parenting responsibilities under a parenting plan:

- If the parents have split parenting responsibilities, the child support obligations of the parents must be offset, and the court must issue a child support order requiring the parent with the larger child support obligation to pay the net amount pursuant to the child support order.
- If the parents *do not* have split parenting responsibilities, a parent’s child support obligation for a child for whom the parent is the designated parent and legal custodian under a parenting plan that is approved by the court and included in an order must be calculated and presumed to be spent on that child and *cannot* be payable as part of a child support order. Conversely, a parent’s child support obligation for a child for whom the parent is *not* the designated parent and legal custodian *must* be calculated and ordered to be paid as part of a child support order.
- If neither parent of a child who is the subject of a child support order is the designated parent and legal custodian of allocated parenting responsibilities for the child and the child resides with a third party who is the legal custodian of the child, the court must issue a child support order requiring each parent to pay that parent’s child support obligation pursuant to the child support order.<sup>114</sup>

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<sup>112</sup> R.C. 3119.01(C)(5), (C)(22), and (C)(23) .

<sup>113</sup> R.C. 3119.07.

<sup>114</sup> R.C. 3119.071.

## Access to child care, records, and student activity

### Child care

The bill requires all child care center officials and employees to allow a parent or legal custodian who has been allocated parenting responsibilities under a parenting plan to have access to any child care center that is, or that in the future may be, attended by the child, unless presented with a copy of an order that specifies the terms, conditions, or limitations under which a parent or legal custodian may access the child care center. The official or employee must allow a parent or legal custodian to have access to the center only in accordance with the most recent order issued and presented.<sup>115</sup> A child care official or employee that knowingly fails to comply with an order may be found in contempt.<sup>116</sup>

Under current law, any parent who is the residential parent and legal custodian of a child enrolled in a child care center and any custodian or guardian of a child must be permitted unlimited access to the center during its hours of operation to contact the children, evaluate the care that the center provides, evaluate the premises of the center, or for other purposes approved by the center director. A nonresidential parent must be given access under the same conditions, but is subject to any agreement between the parents and any terms or conditions limiting the right of access in a parenting time order or decree. If the court determines that a nonresidential parent should not have access to the daycare center to the same extent as the residential parent, the court must: (1) specify the terms and conditions under which the nonresidential parent is to have access to the center, provided that the access cannot be greater than that which is provided to the residential parent, (2) enter its written findings of fact and opinions in the journal, and (3) include in the parenting time order or decree the terms and conditions of access.

The bill updates this law to remove distinctions between residential and nonresidential parents and expands it to legal custodians so that any parent or legal custodian is permitted unlimited access to the child care center, subject to an agreement or order to limit access, as described above. Additionally, the bill changes the access provisions of current law to require that if the court determines a parent or legal custodian should not have access to child care, the court must do the following:

- Specify the terms, conditions, and limitations under which the parent or legal custodian is to have access;
- Enter its written findings of fact and conclusions;
- Issue an order containing both of the following:
  - The terms, conditions, and limitations of access;

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<sup>115</sup> R.C. 3109.0523.

<sup>116</sup> R.C. 3109.0524.

- A notice that any child care center official or employee who knowingly fails to (1) comply with the order or (2) permit a parent to have access when no such order has been issued conditioning, limiting, or prohibiting access, may be found in contempt of court.<sup>117</sup>

## **Records and student activity**

The bill recodifies but mostly maintains current law regarding access to a child's records and student activities. However, like the access to daycare (discussed above), the bill removes the distinction between residential and nonresidential parents and expands the provisions to include legal custodians so that any parent or legal custodian is entitled to access to these records unless the court determines that access would not be in the best interest of the child.<sup>118</sup>

## **Transitional provisions**

The bill contains transitional provisions to address decrees and orders that are issued before the bill's effective date. First, the bill allows parties to any decree that allocates parental rights and responsibilities issued before the bill's effective date to file a motion with the court that issued the decree requesting the approval of a parenting plan to be incorporated into a decree. A decree allocating parental rights and responsibilities before the bill's effective date is not affected or invalidated by, and cannot be construed as being affected or invalidated by, the bill's provisions regarding the allocation of parenting responsibilities in a parenting plan on or after the bill's effective date. The decree issued before the bill's effective date must remain in full force and effect, subject to modification or termination under the bill's provisions on and after the bill's effective date.<sup>119</sup>

## **Allocation of parenting responsibilities in a paternity proceeding**

The bill adds that a judgment or order establishing paternity may include an allocation of parenting responsibilities (in addition to other matters that may be included under existing law, such as the duty of support, the payment of the mother's pregnancy and confinement, the furnishing of bond or other security for the payment of a judgment, and any other matter in the best interest of the child). As a result of this addition, the bill repeals law specifying that after entry of a paternity judgment or order, a father may petition that he be designated the residential parent and legal custodian of the child in a proceeding separate from any action to establish paternity. The bill also repeals law that allows the father to file a complaint for reasonable parenting time rights if the mother is unmarried but retains law that allows the parents or any relative of the father or mother to file a complaint requesting reasonable companionship or visitation.<sup>120</sup>

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<sup>117</sup> R.C. 5104.039, 3109.0521, and 3109.0522; R.C. 3109.051(I), as it appears under current law.

<sup>118</sup> R.C. 3109.0516 to 3109.0519 and 3109.0526 to 3109.0529; R.C. 3109.051(H) and (J), as it appears under current law.

<sup>119</sup> R.C. 3109.0498(A) and (B).

<sup>120</sup> R.C. 3111.13(C).

## Recodification

The bill recodifies current law regarding parental rights and responsibilities, parenting time, and companionship and visitation in the domestic relations context. The following table shows the new organization and includes new provisions enacted under the bill.

Topic	Current Law	Bill
Definitions for allocation of parenting responsibilities	R.C. 3109.04(J)(1) and (3); New	R.C. 3109.04
Court must allocate parenting responsibilities	R.C. 3109.04(A); New	R.C. 3109.041
Allocation of parenting responsibilities must be based on court-approved parenting plan	New	R.C. 3109.042
Parenting plan requirements	R.C. 3109.04(G); New	R.C. 3109.044
Joint or separate filing of parenting plan	R.C. 3109.04(D)(1)(a)(i) and (ii) and (G)	R.C. 3109.045
Court approval of jointly filed parenting plan	R.C. 3109.04(D)(1)(a)(i)	R.C. 3109.046
Court approval of separately filed parenting plan	R.C. 3109.04(D)(1)(a)(ii) and (iii)	R.C. 3109.047
Court must approve own parenting plan if no parent or legal custodian files a parenting plan	New	R.C. 3109.048
Parenting responsibilities in parenting plan must be in child's best interest	R.C. 3109.04(B)(1)	R.C. 3109.049
Court prohibited from approving more than one parenting plan	R.C. 3109.04(D)(1)(b)	R.C. 3109.0410
Court prohibited from drawing presumptions for temporary order	New	R.C. 3109.0411
Court has discretion over parenting plan approval	R.C. 3109.04(D)(1)(b)	R.C. 3109.0412
Designation of legal custodian or certification to juvenile court if no parent suitable	R.C. 3109.04(D)(2)	R.C. 3109.0414
Exclusive jurisdiction of juvenile court on certification	R.C. 3109.04(D)(2); New	R.C. 3109.0415
Standards for court finding parent not suitable	New	R.C. 3109.0416
Appointed legal custodian may submit parenting plan	New	R.C. 3109.0417

Topic	Current Law	Bill
Modification of prior parenting plan with proposed modification agreed to by all parties	New	R.C. 3109.0418
Modification of prior parenting plan without proposed modification agreed to by all parties	New	R.C. 3109.0419
Remedies if motion to modify prior parenting plan brought in bad faith	New	R.C. 3109.0420
Temporary custody order while allocation of parenting responsibilities action pending	R.C. 3109.043, first paragraph	R.C. 3109.0422
Request for oral hearing to modify a temporary order	New	R.C. 3109.0423
Custody rights of unmarried mother	R.C. 3109.042(A), first sentence	R.C. 3109.0424
Parental preference prohibited when allocating parenting responsibilities of child born to unmarried mother	R.C. 3109.042(A), second sentence	R.C. 3109.0425
Unmarried female convicted of or pleaded guilty to rape or sexual battery of other parent of child	R.C. 3109.042(B)	R.C. 3109.0426
Appeal of order granting or modifying parenting responsibilities gas priority	R.C. 3109.04(H)	R.C. 3109.0428
Best interest factors when allocating parenting responsibilities	R.C. 3109.04(F)(1)	R.C. 3109.0430
Court may order counseling for parent or legal custodian	R.C. 3109.053	R.C. 3109.0432
Court may order parent education for parent or legal custodian	R.C. 3109.053	R.C. 3109.0433
Court waiver of parent education	New	R.C. 3109.0434
Court may order delivery of child for child education	New	R.C. 3109.0435
Court must determine notice method of parent and child education	New	R.C. 3109.0436
Court may order parent, legal custodian, or child to submit to investigation or evaluation	R.C. 3109.04(C), first paragraph, first sentence; New	R.C. 3109.0439

Topic	Current Law	Bill
Signed investigation or evaluation report must be made available to each parent or legal custodian and counsel of record	R.C. 3109.04(C), first paragraph, second sentence; New	R.C. 3109.0440
Investigator or evaluator subject to cross-examination	R.C. 3109.04(C), first paragraph, third sentence; New	R.C. 3109.0441
Apportionment of investigation or evaluation costs	R.C. 3109.04(C), first paragraph, fourth sentence; New	R.C. 3109.0442
Interview of child regarding child's wishes and concerns	R.C. 3109.04(B)(1) and (B)(2)(c)	R.C. 3109.0445
Determination of child's reasoning ability and best interests prior to interview	R.C. 3109.04(B)(2)(b)	R.C. 3109.0446
Who is required to be present at interview of child	R.C. 3109.04(B)(2)(c); New	R.C. 3109.0449
Parent or legal custodian may submit written questions for use in child interview	New	R.C. 3109.0450
Court must record child interview, access by court and appellate court only	New	R.C. 3109.0451
Written or recorded statement or affidavit from child is prohibited	R.C. 3109.04(B)(3)	R.C. 3109.0452
Parent's or legal custodian's attorney prohibited from discussing parenting responsibilities with child subject	New	R.C. 3109.0453
Court may permit or order restrictions on parenting responsibilities	New	R.C. 3109.0455
Standards for restriction on parenting responsibilities	New	R.C. 3109.0456
Type of restrictions on parenting responsibilities	New	R.C. 3109.0457
Findings required for parenting plan without restrictions if restriction standards apply	New	R.C. 3109.0458
Supervisor of parenting time or companionship or visitation	New	R.C. 3109.0459

Topic	Current Law	Bill
Court appointment of guardian ad litem (GAL)	R.C. 3109.04(B)(2)(a)	R.C. 3109.0461
GAL duties	New	R.C. 3109.0462
GAL must be provided all pleadings, hearing notices	New	R.C. 3109.0463
Court may appoint attorney for child	New	R.C. 3109.0465
Attorney for child appointment requirements	New	R.C. 3109.0466
Attorney for child must be provided all pleadings, hearing notices	New	R.C. 3109.0467
Child's GAL cannot serve as child's attorney	New	R.C. 3109.0468
Occurrence of residence relocation	New	R.C. 3109.0470
Filing notice of intent to relocate	R.C. 3109.051(G)(1); New	R.C. 3109.0471
Deadline to file notice of intent to relocate	New	R.C. 3109.0472
Notice of intent to relocate requirements	New	R.C. 3109.0473
Court may restrict disclosure of intent to relocate for safety	R.C. 3109.051(G)(2); New	R.C. 3109.0474
Failure to file notice of intent to relocate	New	R.C. 3109.0475
Objection to relocation	New	R.C. 3109.0476
Deadline to file objection to relocation	New	R.C. 3109.0477
Hearing for objection to relocation	New	R.C. 3109.0478
Factors for court consideration on proposed relocation	New	R.C. 3109.0479
Active military service and uniformed services definitions	R.C. 3109.04(J)(2) and (5) and 3109.051(O)(2)	R.C. 3109.0482
Notice to other parent on receipt of order for active military service	R.C. 3109.04(I)(1) and 3109.051(M)(2)(a)	R.C. 3109.0483
Application for hearing to expedite proceeding prior to beginning of active military service	R.C. 3109.04(I)(2) and 3109.051(M)(1)	R.C. 3109.0484

Topic	Current Law	Bill
Court shall hold hearing not later than 30 days after receipt of application for expedited hearing	R.C. 3109.04(I)(2) and 3109.051(M)(2)(b)	R.C. 3109.0485
Court prohibited from finding active military service to constitute change in circumstances for modification of prior decree	R.C. 3109.04(I)(2)	R.C. 3109.0486
Temporary order allocation or modifying parenting responsibilities for duration of active military service	R.C. 3109.04(J)(3) and 3109.051(M)(1); New	R.C. 3109.0487
Parent ordered for active military service may participate and present evidence in temporary order proceeding by electronic means	R.C. 3109.04(J)(4) and 3109.051(M)(3)	R.C. 3109.0488
Notice on termination of parent's active military service	R.C. 3109.04(J)(5)	R.C. 3109.0489
Order delegating parenting time does not create standing to assert companionship or visitation independent of order	R.C. 3109.051(M)(2)(d)	R.C. 3109.0490
Hearing for interference with parenting time or companionship or visitation	New	R.C. 3109.0491
Temporary orders for alleged interference hearing	New	R.C. 3109.0492
Remedies for interference with parenting time or companionship or visitation	New	R.C. 3109.0493
Temporary custody to putative father if parent-child relationship not established	R.C. 3109.043, second paragraph	R.C. 3109.0497
Transitional provisions: orders allocating parental rights and responsibilities prior to bill's effective date	R.C. 3109.04(L)(5) and (6); New	R.C. 3109.0498(C) (divisions (A) and (B) are new)
Definitions of "confidential law enforcement investigatory record" and "record"	R.C. 3109.051(O)(3) and (5)	R.C. 3109.0515
Resolving disagreements in the allocation of parental responsibilities	R.C. 3109.052	R.C. 3109.052
To whom court may grant companionship or visitation	R.C. 3109.051(B)(1)	R.C. 3109.054
Filing of motion for companionship or visitation	R.C. 3109.051(B)(2)	R.C. 3109.055

Topic	Current Law	Bill
Court must consider mediation and certain factors when determining to grant companionship or visitation	R.C. 3109.051(C)	R.C. 3109.056
Factors court must consider when determining to grant companionship or visitation	R.C. 3109.051(D)	R.C. 3109.057
Court may interview child in considering statutory factors for companionship or visitation	R.C. 3109.051(C)	R.C. 3109.058
Who may be present during child's interview	R.C. 3109.051(C)	R.C. 3109.059
Written or record statement or affidavit from child is prohibited	R.C. 3109.051(C)	R.C. 3109.0510
Parent remarriage does not prohibit court from granting companionship or visitation	R.C. 3109.051(E)	R.C. 3109.0511
Court requirement when companionship or visitation denied	R.C. 3109.051(F)	R.C. 3109.0512
Access to records related to child	R.C. 3109.051(H)(1), first sentence	R.C. 3109.0516
Limitations on access to records related to child	R.C. 3109.051(H)(1), second and third sentences	R.C. 3109.0517
Requirements for keeper of records related to child	R.C. 3109.051(H)(2)	R.C. 3109.0518
Protective order preventing disclosure of records related to child	R.C. 3109.051(H)(3)	R.C. 3109.0519
Access to child's child care center	R.C. 3109.051(I), first and second sentences	R.C. 3109.0521
Limitations on access to child's child care center	R.C. 3109.051(I), third sentence; New	R.C. 3109.0522
Compliance with access to and limitations on child care center	New	R.C. 3109.0523
Penalty for failure to comply with access to and limitations on access to child care center	New	R.C. 3109.0524
Access to child's student activity	R.C. 3109.051(J)(1), first sentence	R.C. 3109.0526

Topic	Current Law	Bill
Limitations on access to child’s student activities	R.C. 3109.051(J)(1), second and third sentences	R.C. 3109.0527
Compliance with access to and limitations on child’s student activities	R.C. 3109.051(J)(2), first and second sentences	R.C. 3109.0528
Penalty for failure to comply with access to and limitations on child’s student activities	R.C. 3109.051(J)(2), third sentence	R.C. 3109.0529

## Cross-reference and other nonsubstantive updates

The bill amends many existing sections of the Revised Code to update cross-references and update or remove terms as a result of the extensive recodification of, and changes to, current law. The following are examples of these changes:

- Updates many references to “companionship or visitation rights” to “companionship or visitation”;
- Removes references to parenting time or companionship or visitation when it comes to a noncustodial parent, since the bill repeals the concepts of a custodial and noncustodial parent;
- Clarifies existing uses of “parenting time” as time that a parent spends with a child under a parenting plan;
- Updates the term “residential parent” to “designated parent” where applicable;
- To the extent that it is applicable and makes sense, changes references to a shared parenting decree or order to an order that includes a parenting plan;
- Repeals an outdated provision of law that required a Task Force on Family Law and Children to submit a report by 2001.<sup>121</sup>

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<sup>121</sup> These changes are included in the following sections: R.C. 109.65, 313.121, 1713.55, 1733.242, 2108.81, 2111.08, 2151.011, 2151.23, 2151.33, 2151.90, 2301.03, 2307.50, 2317.02, 2701.03, 2705.031, 2901.30, 3101.041, 3105.011, 3105.21, 3105.63, 3105.65, 3109.03, 3109.04, 3109.041, 3109.0497 (renumbered from R.C. 3109.043 under existing law), 3109.05, 3109.052, 3109.0515 (renumbered from R.C. 3109.051 under existing law), 3109.0550 (renumbered from R.C. 3109.054 under existing law), 3109.0570 (renumbered from R.C. 3109.055 under existing law), 3109.06, 3109.061, 3109.09, 3109.11, 3109.12, 3109.401, 3109.41, 3109.42, 3109.43, 3109.44, 3109.47, 3109.48, 3109.50, 3109.51, 3109.52, 3109.53, 3109.55, 3109.56, 3109.58, 3109.60, 3109.65, 3109.66, 3109.68, 3109.74, 3111.13, 3111.26, 3111.381, 3113.31, 3119.01, 3119.06, 3119.071, 3119.08, 3119.24, 3119.82, 3119.87, 3119.964, 3125.03, 3125.06, 3125.43, 3127.01, 3127.11, 3127.23, 3127.35, 3310.51, 3313.205, 3313.64, 3313.666, 3313.672,

## HISTORY

Action	Date
Introduced	04-08-25
Reported, S. Judiciary	11-05-25
Passed Senate (29-2)	11-12-25

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3313.712, 3313.96, 3313.98, 3319.321, 3321.01, 3323.143, 3328.01, 3332.25, 3333.26, 3345.85, 3701.503, 3780.33, 3796.24, 3902.13, 3924.47, 5104.017, 5104.018, 5104.039, 5107.02, 5120.652, 5120.653, 5123.01, 5153.16, and 5180.14.